IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7732 of 1998

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

RANGE FOREST OFFICER - Petitioner(s)

Versus

MAHIPATSINH DHANUBHA JHALA - Respondent(s)

==========

Appearance :
MR KL PANDYA AGP for Petitioner No(s).: 1.

RULE SERVED for Respondent No(s).: 1.

==========

CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 18/07/2005

ORAL JUDGMENT

.

1.0 The petitioner has challenged the order dated 13.08.1997 passed by the Labour Court, Surendranagar, in

Recovery Application No.295 of 1990, whereby the said application was allowed and the petitioner was directed to pay an amount of Rs.5,246/- to the respondent.

2.0 The brief facts of the case are that the respondent filed an application u/s.33(C)(1) of the Industrial Disputes Act, 1947 praying that a recovery certificate be issued in his favour for recovery of an amount of Rs.18,500/- from the petitioner. Pursuant to the Notice issued by the Labour Court, the petitioner filed his reply stating that as per their calculation, the respondent was entitled to Rs.12,160/- only, which was already paid to him. The Labour Court, by impugned award, issued the aforesaid direction. Hence, this petition.

3.0 Mr. KL Pandya learned AGP has contended that in view of the Full Bench decision of this Court in the case of Gujarat Forest Producers, Gatherers & Forest Workers Union v. State of Gujarat reported in 2004 (2) G.L.R. pg.1488, the Forest Department of the petitioner cannot be termed to be an “Industry” under the Industrial Disputes Act, 1947. He has, therefore, submitted that the impugned award of the Labour Court is bad in law and deserves to be quashed and set aside.

4.0 I have heard learned counsel for the parties and perused the documents placed on record. It is required to be noted that by order dated 14.12.1987 passed in Reference (LCR) No.340 of 1986, the Labour Court, Rajkot, had directed the petitioner herein to reinstate the respondent workman to his original post with continuity of service and full back wages. The said award was not challenged by the petitioner herein. Hence, the impugned award has achieved finality.

4.1 In the present case, the petitioner has challenged the impugned award dated 13.08.1997. Therefore, the contention raised by Mr. Pandya is mis-conceived and is required to be rejected. I am in complete agreement with the reasonings given by the Labour Court and find no reason to interfere in this petition. Hence, the petition deserves to be dismissed.

5.0 For the foregoing reasons, this petition is dismissed. The impugned order dated 13.08.1997 passed by the Labour Court, Surendranagar, in Recovery Application No.295 of 1990 is confirmed. It is further directed that if the amount in question has not been paid to the

respondent workman so far, the petitioner is directed to pay the said amount to the respondent forthwith and if the said amount is already paid, it shall be adjusted against the amount as directed by the Labour Court. Rule is discharged with no order as to costs.

(K. S. JHAVERI, J.)

pravin/ *